

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States District Court
Southern District of Texas
FILED

JAN 13 2019

David J. Bradley, Clerk of Court

United States of America

v.

Stephen Torres

Case No.

4:19MJ66

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 11, 2019 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

18 USC 2251(a) &(e)

Offense Description

Production of Child Pornography

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.

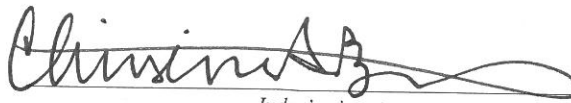
Complainant's signature

Robert J. Guerra, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

January 13, 2019

Judge's signature

City and state:

Houston, Texas

Christina A. Bryan, USMJ

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert J. Guerra, being duly sworn, depose and state:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), assigned to the Special Agent in Charge (SAC), in Houston, Texas. I have been so employed since November 2005. As part of my daily duties as an FBI agent, I am assigned to the FBI Houston Child Exploitation unit which investigates criminal violations relating to child exploitation and child pornography including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of Title 18 U.S.C. § 2251 and 2252A et seq. I have received training in the area of child pornography and child exploitation. I have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media. Child Pornography, as defined in 18 U.S.C. § 2256, is:

“any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where – (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; . . . [or] (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.” For conduct occurring after April 30, 2003, the definition also includes “(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from that of a minor engaging in sexually explicit conduct.”

2. This Affidavit is made in support of a criminal complaint charging Stephen TORRES with violating Title 18 U.S.C. § 2251(a) & (e), which makes it a crime to produce child pornography.
3. I am familiar with the information contained in this Affidavit based upon the investigation I have personally conducted and my conversations with other law enforcement

officers involved in this investigation, or who have engaged in numerous investigations involving child pornography.

4. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation, I have set forth only those facts that I believe are necessary to establish probable cause that evidence of a violation of Title 18 U.S.C. § 2251(a) & (e) has been committed by Stephen TORRES beginning on or about January 11, 2019. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part.
5. Law enforcement has been conducting an investigation into the alleged criminal activity of Stephen TORRES, hereinafter referred to as "TORRES". The FBI has learned during the course of this investigation that TORRES is suspected of actively engaging in the sexual exploitation and sexual abuse of a minor female.
6. Leading up to January 11, 2019, Detective Timothy Palchak, was acting in an undercover capacity as part of the Washington District of Columbia Metropolitan Police Department-Federal Bureau of Investigation ("MPD-FBI") Child Exploitation Task Force. In that capacity, the UC entered a public KIK group titled, "#realfather" with a group display name of, "Open Minded Dad". KIK is a free mobile application that permits users to send text messages and other content, including videos and images. KIK also allows members to create groups that allow users to communicate as a group and send pictures and videos.
7. Upon entering the group, the UC posted the following message to the group, "Any other dads home with kids". A KIK user using the KIK name, "dann.x93," not fully identified responded to the message by stating, "I a stepdad 2yr lilgirl and 3 and 4 yr old lilboy". The UC initiated a private message with "dann.x93" in a private KIK chat.


8. During the course of the private chat "dann.x93" stated that he was a 24 year-old male residing in Galveston Texas. "dann.x93" stated that he was home with his 2 year-old step daughter and 3 year-old son. Detective Palchak asked "dann.x93", "What are you looking to get into?" "dann.x93" responded, "Would you like to trade". Detective Palchak asked "dann.x93" to take a live picture of him holding up 3 fingers in front the children. "dann.x93" complied and sent a live camera image of himself holding up 3 fingers in front of a clothed minor male, who appeared to be approximately 3 years of age and a clothed minor female, who appears to be approximately 2 years of age. The children can be seen sitting on a red and black blanket. Detective Palchak asked "dann.x93" if he could take another image holding up 3 fingers in front of just the minor female. "dann.x93" complied and sent an image of himself holding up 3 fingers in front of the minor female, who appears to be the same minor female depicted in the previous photograph and the same red and black was visible.
9. Detective Palchak asked "dann.x93" what pictures of the minor male that he had from the past. "dann.x93" answered, "Im try pull them up on my dropbox. Can you take a picture of her feet". "dann.x93" sent an image depicting the minor female fully clothed, while the minor female's feet were visible to the view of the camera. Detective Palchak asked "dann.x93" what kind of pictures he had of the minor female in Dropbox. "dann.x93" then sent Detective Palchak an image depicting what appears to be a minor female touching a male's penis with her feet. The minor female appears to be lying on the same aforementioned red and black blanket.
10. During the course of the chat referring to the minor female "dann.x93" stated, "I showed her how grab my cock out and suck it". "dann.x93" sent a video depicting the minor female

being orally penetrated by an adult male's penis. An adult male can be heard in the background giving the minor female instructions.

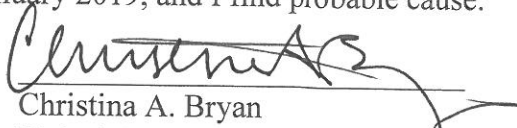
11. SA Robert J. Guerra has reviewed the video and image files sent by TORRES and believes, based on his training and experience, that several of the images and videos sent by TORRES are child pornography as defined in Title 18, United States Code, Section 2256.
12. An emergency disclosure request was sent to Kik for subscriber information associated with username "dann.x93". Kik's response provided by a display name of "Danny M", an unconfirmed email address of ovo66648@gmail.com, a device description of MetroPCS android LGMS330, and IP logs spanning December 16, 2018, through January 11, 2019.
13. Examination of the IP logs yielded a Comcast Communications IP address 98.201.246.231, was used all but one time to access the target account. An exigent request was also sent to Comcast for subscriber identification and physical service address information associated with the aforementioned IP address. Comcast verbally responded to the request identifying the subscriber as well as a specific physical service address located in Houston, Texas.
14. On January 12, 2019, a State search warrant was applied for and granted by 182nd District Judge Danilo Lacayo. The said search warrant was executed at the specific address identified by Comcast Communications in Houston, Texas on January 12, 2019. During the execution of the search warrant, SA Guerra and SA Ryan J. Shultz interviewed TORRES. After being advised of his *Miranda Rights*, TORRES agreed to make a statement.
15. TORRES admitted to the interviewing agents that he was the adult male depicted in the child pornography images and videos sent to Detective Palchak. TORRES stated he had been molesting the minor female, identified as MV1 (birth year of 2016) for the past few months.

TORRES admitted that all the activities relating the sexual exploitation of MV1 took place inside the residence located at the specific address referenced above. TORRES stated he has sent images and videos depicting MV1 to approximately 5 or 6 other individuals while using KIK.

16. TORRES advised the interviewing agents that no child pornography would be found on his LG cellular phone located inside the residence. TORRES stated he stored all of his child pornography, to include the images and videos depicting MV1 in a DropBox account. TORRES stated he never penetrated MV1 vaginally or anally. TORRES stated he has only penetrated MV1 orally and has done so only a few times.
17. During the execution of the search warrant, investigators found the clothing MV1 was wearing during the production of the videos depicting child pornography sent to Detective Palchak. Investigators also found the red and black blanket depicted in the images and videos received by Detective Palchak. Lastly, the mother of MV1 positively identified the minor female victim depicted in the child pornography images and videos sent to Detective Palchak as MV1.
18. Based upon the information delineated above, I believe that probable cause exists for the issuance of a Criminal Complaint charging TORRES with a violation of Title 18 U.S.C. § 2251(a) & (e), which makes it a crime to produce child pornography.


Robert J. Guerra
Special Agent, FBI

Subscribed and sworn before me this 13th of January 2019, and I find probable cause.


Christina A. Bryan
United States Magistrate Judge